

Finding Your Way

Guides for Fathers in Child Protection Cases

Guide 3.1 The Court Process

About the guides

This is one in a series of guides that give you tips to help you and your child throughout the court case. The guides include:

Guide 1: Your rights and responsibilities

Guide 2: How to work with your lawyer

Guide 3: Your role in court

3.1: The court process

3.2: Who will be in court

3.3: Common court terms

Guide 4: Your role outside court

Guide 5: When you owe child support

Guide 6: If you are or have been in prison

Keep these guides in a safe place. Review them before you attend a court hearing or meeting. Check the guides to see which one(s) will help you as you prepare for that court date or meeting.

This guide provides general information, not legal advice. If you have case-specific or legal questions, ask your lawyer or caseworker.



Permanency Hearing

(approximately 12 months after the case began, or earlier if the abuse or neglect was severe)

- The judge evaluates case progress.
- The judge looks at whether reunification with the parent is still appropriate. If not, the judge will consider changing the permanency goal to **termination of parental rights and adoption, guardianship** (permanent placement with a relative) or **another planned permanent living arrangement** for the child.
- If the parents have not progressed towards meeting the goals set by the judge at earlier hearings, the judge may change the focus of the case from helping the parents reunite with the child to finding the child another permanent home.

Termination of Parental Rights

- The parent may request a trial or agree to terminate his or her rights to the child. If the parent doesn't want his or her rights terminated, the judge must hold a hearing where each party's lawyers can present evidence to the judge supporting their clients' positions. Evidence will include documents and witnesses. The parents and the child may be asked to testify.
- The judge will review the case history, how long the child has been in foster care, and what the parents and caseworkers have or have not done to try to reunify with the child.
- The evidence must meet a high standard before the judge can terminate parental rights.

Termination Denied

- The child may stay in foster care to give the parents more time to meet the court's requirements.
- The child may return home immediately.

Termination Granted

- Parents lose their rights to their child.
- Agency looks for a home to adopt the child or pursues permanent guardianship or another planned permanent living arrangement.

Permanent Guardianship

(placement with a relative)

- The judge decides at the **permanency hearing** that reunification with the parent is not possible, but believes the child may be able live with a relative.
- At a later hearing, the judge gives the relative custody of the child, but the parent's rights are *not* terminated.
- Case closes after the guardianship arrangement is final.

Another Planned Permanent Living Arrangement

- This is the least favored option for children and youth.
- At the **permanency hearing** or a later hearing, the judge decides the parents cannot take custody of the child, the child can't or doesn't want to be adopted, and there are no relatives available to care for the child.
- The judge will look for other long-term living arrangements for the child.
- The parents' rights may or may not be terminated.
- An older child will probably move to an independent living program that prepares the child to live independently.
- The court case will likely stay open and the child will continue to receive services from the agency until he or she is an adult and the court case closes. (*Some states keep the case open until the child is age 18, others may keep the case open until the child is 19, 20 or 21.*)

The Court Process

You're a dad who does not live with your child. You learn your child is involved in a court case because of suspected abuse or neglect. **The following chart walks you through the court process.** It explains the court hearings and what happens at them so you can prepare. Many things happen outside court as well. Although the judge must decide where the child should live or who the child should visit, the judge can change his or her mind when circumstances change.

Removal and/or Petition to Court

The agency asks the court to open a court case because it:

- removed a child from home because of concerns over the child's immediate safety;
- wants to ask to remove a child from his or her home; or
- has other concerns about a child's safety at home.

First Court Hearing

The judge will decide:

- whether the child is unsafe at home;
- if there is enough evidence to support the child's emergency removal until trial; and
- if the agency tried to prevent the child's removal (referred to as "making reasonable efforts").

If you attend this court hearing and make less than a certain amount of money, many states will appoint you a free lawyer. If you don't meet the income requirements or your state doesn't appoint lawyers for parents, you may try hiring someone. Ask the court for a list of lawyers who you could hire or ask where you can find free or low-cost legal help.

Case Closes

- Judge finds the agency lacks enough evidence to remove the child or be involved in the family's life.
- Agency may offer voluntary services to you and your family.
- Child is returned to the parent from whom he or she was removed.

Case Stays Open

- Judge finds the agency had enough reason to remove the child or remain involved in the family's life.
- Child remains or is placed in foster or kinship care, or stays home. The court and agency continue overseeing how things are going.
- Judge may order:
 - contact between the child and parents
 - evaluations or services for parents or child
- Attorneys may be appointed for each parent and an attorney, guardian ad litem and/or court appointed special advocate (often called a "CASA") may be appointed for the child (if they haven't been already).

Pretrial Conference/Mediation/Stipulation

(not used everywhere)

- Parties (e.g., parents, child, attorneys, caseworker) try to settle case without going to trial.
- One or both parents may be asked to admit they abused or neglected their child to reach a settlement agreement.
- The parties may create a basic care plan for the child.

Agreement

- Parties present settlement agreement to the judge for approval.
- If the judge accepts the agreement, the case moves to the **disposition hearing** and does not go to trial.

No Agreement

- Court sets a **trial** date.

Trial (Adjudicatory Hearing)

- Judge decides if there is enough evidence to find the child was abused or neglected.
- Lawyers present evidence to the judge supporting their clients' positions. Evidence includes documents and witnesses. Parents and child may be asked to testify.

If "YES"

- The court takes control of child's situation and decides where the child will live, with whom the child can visit, and services for the child and parents.
- The court sets a date for the **disposition hearing**.

If "NO"

- Court case closes.
- Agency may offer voluntary services to you and your family.
- Child returns home (to the parent from whom he or she was removed).

Disposition Hearing

- The judge orders services for parents to help them reunite or remain with their child (e.g., counseling, drug treatment, evaluations).
- The judge determines what improvements the parents must make and by when so the child can go home.
- Child could return home at this hearing with the requirement that the parents participate in certain services. The child may also stay in foster or kinship care if the judge believes the parents are not ready to care for the child.
- The judge could set multiple placement goals for the child (called "concurrent planning"). The first goal may be to live with the parent from whom the child was removed. The second goal may be to live with the other parent or a relative.

Review Hearings

(every 6 months or sooner if the judge decides it's necessary)

- The judge evaluates case progress.
- Parents' case plans may be changed, if case circumstances change (if progress has been made, court expectations may be easier; if not, they will probably get stricter).
- The judge could set multiple placement goals for the child (called "concurrent planning"). The first goal may be to live with the parent from whom the child is removed. The second goal may be to live with the other parent or a relative.